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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/580,094	05/19/2006	Alois Tanner	06-240	7457
34704 7590 11/06/2007 BACHMAN & LAPOINTE, P.C. 900 CHAPEL STREET SUITE 1201 NEW HAVEN, CT 06510			EXAMINER TAWFIK, SAMEH	
			ART UNIT 3721	PAPER NUMBER
			MAIL DATE 11/06/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/580,094

Applicant(s)

TANNER, ALOIS

Examiner

Sameh H. Tawfik

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____                                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>20060519</u>  | 6) <input type="checkbox"/> Other: ____                           |

## **DETAILED ACTION**

### ***Priority***

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Specification***

The disclosure is objected to because of the following informalities:

Specification; paragraph No. 0009, line 5; "of dependent claims." need to be deleted.

Referring to claim numbers on the specification is not appropriate.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 6, 9, and 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 6, lines 2 and 3; "if the loop length (L) is not reached," is not clear as of what applicant means by "reached"?; reach where, of what?;

In claim 9, lines 2 and 3 "a printed package band" is vague and indefinite as it is not clear if is it the same "package band" disclosed on claim 1 or different one? if it is different one, how would it work along with the "package band" of claim 1?;

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In claim 10, lines 3 and 4; “printed information is checked with the aid of the preselection loop and preferably banded centrally.” is vague and indefinite as it is not clear what applicant is referring to?; etc.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, and 6-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Lyon et al. (U.S. Patent No. 5,146,847).

Lyon discloses a method for banding element (13) as been disclosed by the claimed invention, see for example Fig. 2; comprising a pre-selection loop of the package band being pulled back to a pre-selected loop length in the reverse movement with an aid of an electronic control system (column 3, lines 51-54; via “controller means 34 monitors the reversing tension of the strap 18 about the item 13 and stops the drive motor 32 when the tension equals a predetermined tension.”; note that the “predetermined tension” is equivalent to the claimed “preselected loop length” since both are referring to reversing the band certain length.

Regarding claim 2: rotary encoder roller ends the reverse movement of the package band, see for example Figs. 1 and 2.

Regarding claim 6: “if the loop length is not reached”, the process is interrupted and a fault is indicated, see for example Figs. 3-4B.

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Regarding claims 7 and 8: a maximum/minimum band tension can be selected by the control system (column 3, lines 51-54; via “a predetermined tension”; could be max or min.)

Regarding claim 9: wherein “a printed package band” is positioned with a control system, see for example Figs. 1 and 2.

Regarding claim 10: wherein in the banding machine “printed information is checked with the aid of the preselection loop and preferably banded centrally”, see for example Figs. 1 and 2.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lyon et al. (U.S. Patent No. 5,146,847).

Lyon discloses that the loop length is predetermined by automatic measuring values of the packed items (13), the data is entered and selectably stored for the digital control system (column 6, lines 52-59).

Lyon does not disclose determining the length by measuring the stacked goods. However, the examiner takes an official notice that such measuring values of the packed items 13 of Lyon is equivalent to stacked goods and Lyon is capable of measuring a stacked goods instead of items 13.

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Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have substituted Lyon's item 13 by stacked goods, as a matter of engineering design choice, in order to make the packing method capable of handling more packing materials/stacks.

*Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sameh H. Tawfik whose telephone number is 571-272-4470. The examiner can normally be reached on Tuesday - Friday from 9:00 AM to 7:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ST.

Sameh H. Tawfik  
Primary Examiner  
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